



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

**MAILED**

APR 23 2001

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Applicant: Caras  
Application No.: 08/635,130  
Filed: 04/19/96  
For: AL-2 Neurotrophic Factor Nucleic Acid

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 104,563.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

*Carol A. Spiegel*  
Carol A. Spiegel  
Administrative Patent Judge

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Carol A. Spiegel  
Administrative Patent Judge  
Box Interference  
Washington, DC 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed: April 23, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

MAILED

INGRID W. CARAS

Junior Party,  
Application 08/635,130

v.

APR 23 2001  
PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

SAMUEL DAVIS, NICHOLAS W. GALE  
and GEORGE D. YANCOPOULOS

Senior Party  
Application 09/051,994

Patent Interference No. 104,563

NOTICE DECLARING INTERFERENCE  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Carol A. Spiegel has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **1:00 p.m. on June 19, 2001** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical

Interference No. 104,563  
Davis v. Caras

preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

**Junior Party**

Named inventors: Caras, Ingrid W.

Application: 08/635,130,  
filed April 19, 1996

Title: AL-2 Neurotrophic Factor Nucleic Acid

Assignee: GENENTECH, INC.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

## Senior Party

Named inventors: Davis, Samuel  
Gale, Nicholas W.  
Yancopoulos, George D.

Application: 09/051,994,  
filed April 24, 1998

## Title: Biologically Active EPH Family Ligands

Assignee: REGENERON PHARMACEUTICALS, INC.

Accorded Benefit: of PCT application PCT/US96/17201,  
filed October 25, 1996

of US provisional application 60/007,015,  
filed October 25, 1995

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

An isolated nucleic acid sequence according to claim 3 of Caras application '130  
encoding amino acid sequence SEQ ID NO:4

or

an isolated nucleic acid sequence according to any of Davis application '994 claims 1 or  
3 encoding amino acid sequence SEQ ID NO: 1 wherein Xaa in SEQ ID NO: 1 is "R. "

The claims of the parties are:

Caras application '130: 3, 7, 9, 12-17 and 40-42

Davis application '994: 1-14

The claims of the parties that correspond to Count 1 are:

Caras application '130: 3, 9, 12-17, 40 and 42

Davis application '994: 1, 3 and 7-14

The claims of the parties that do not correspond to Count 1, and therefore are not  
involved in the interference on the issue of priority, are:

Caras application '130: 7 and 41

Davis application '994: 2 and 4-6

Interference No. 104,563  
Davis v. Caras

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interferences. See  
§ 18 of the STANDING ORDER.

Paper       <sup>1</sup>

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State and Zip-Code  
Tel:  
Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

INGRID W. CARAS  
Junior Party,  
Application 08/635,130

v.

SAMUEL DAVIS, NICHOLAS W. GALE  
and GEORGE D. YANCOPOULOS  
Senior Party  
Application 09/051,994

Patent Interference No. 104,563 (CAS)

TITLE OF PAPER

<sup>1</sup> Leave a blank line because the board assigns the paper number.

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1. **§ 7:** date for identifying lead and backup counsel.
2. **§ 8:** date for identifying any real party in interest.
3. **§ 9:** date for requesting copies of involved and benefit applications and patents.
4. **§ 17:** date for filing list of proposed preliminary motions.
5. **§ 19:** date for accomplishing certain discovery.
6. **§ 20:** date for filing clean copy of claims.
7. **§ 21:** date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. **§ 23:** dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. **§ 33:** date for objecting to admissibility of evidence.
10. **§ 34:** date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. **§ 35:** dates when cross-examination can take place.
12. **§ 45:** dates for taking action with respect to settlement discussions.

Interference No. 104,563  
Davis v. Caras

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,563 (CAS)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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Telephone, including area code: \_\_\_\_\_

Interference No. 104,563  
Davis v. Caras

**Part J. Signature of administrative patent judge**

*Carol A. Spiegel*  
Carol A. Spiegel  
Administrative Patent Judge

Date: April 23, 2001  
Arlington, VA

Enc:

**Copy of STANDING ORDER**

Copy of order used for setting times for taking action in the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference (ORDERTE6)

**PTO Form 850**

Copy of claims of application 08/635,130  
claims of application 09/051,994

Copy of application 08/635,130 SEQ ID NO: 4  
application 09/051,994 SEQ ID NO:1

**DECLARE.007**  
Revised September, 2000  
(replaces DECLARE.006.01)

Interference No. 104,563  
Davis v. Caras

104,563  
cc (via Federal Express):

Attorney for Davis  
(real party in interest,  
Regeneron Pharmaceuticals, Inc.):

Robert J. Cobert  
Regeneron Pharmaceuticals, Inc.  
777 Old Saw Mill River Road  
Tarrytown, NY 10591

Attorney for Caras  
(real party in interest,  
Genentech, Inc.):

Ginger R. Dreger  
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Sixteenth Floor  
Newport Beach, CA 92660

Interference No. 104,563

Davis v. Caras